

*Thirdly.* The infants were quite young, and would not be capable, for many years, of taking charge of the property. Two of them were females, and could not, even after their full age, personally and beneficially assume and direct the management of their estates.

*Fourthly.* The mother and guardian of the infants was not competent, by reason of her sex, her situation, and her inexperience in business to control and supervise the conduct of either properly, which its extensiveness, nature, and condition demanded.

*And Fifthly.* The property at that time would probably sell for as much as it would at any short future period; and the commissioners did not doubt, that if the proceeds were judiciously invested in public stock, the surplus interest, which would remain after the deduction of an annual sum sufficient for the maintenance and education of the infants, would more than equal any advance in the value of the property which coming years might bring.

Upon this report of the commissioners the case was submitted without argument.

24th May, 1828.—BLAND, *Chancellor*.—Before we proceed to the consideration of this case, it may be well, for the better understanding of the whole matter, to advert to the law as it before stood, as well as to some of the special estate acts, which the General Assembly had been induced to pass in relation to similar cases before the passage of the general acts under which this case has been brought before the court.

Among the various rights which an owner may exercise over his property is that of directing, by his contract, his will, or otherwise, that his real estate shall be converted into personalty, or that his personalty shall be converted into realty. This right of conversion, however regarded at law, has long, in equity, been held to be a well established incident to every absolute ownership. And as equity considers that which has thus been directed to be done as having actually been done, in every case, except in dower; (a) it thenceforward, and, for almost all purposes, treats the estate as being, in the eye of equity, real or personal according to the character which its owner has thus stamped upon it. The exercise of such an act of ownership gives rise to a variety of principles, in relation to property so disposed of, (b) the

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(a) *Crabtree v. Bramble*, 3 Atk. 687.—(b) *Doughty v. Bull*, 2 P. Will. 320; *Lechmere v. Carlisle*, 3 P. Will. 211; *Thornton v. Hawley*, 10 Ves. 129; *Ashby v. Palmer*, 1 Meriv. 296.